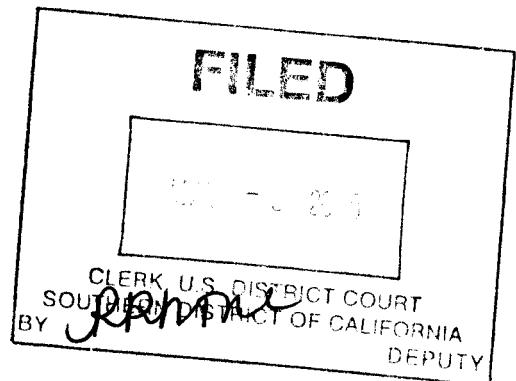


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UNITED STATES OF AMERICA



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 v.)
14 LUCIO RODRIGUEZ,)
15 Defendant.)
16 _____)

Magistrate Case No. 08MJ1239

**STIPULATION OF FACT AND
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Procedural Rule)

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and W. Mark
19 Conover, Assistant United States Attorney, and defendant LUCIO RODRIGUEZ, by and through
20 and with the advice and consent of Stephen D. Lemish, counsel for defendant, that:

21 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
22 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
23 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
24 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
25 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)
26 and (v)(II).

27 //

28 //

WMC:mg:4/30/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **May 27, 2008**.

6 4. The material witnesses, Enrique Huerta-Garcia, Idelberto Benitez-Maruri, and
7 Rudolfo Valdez-Olivares, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
9 b. Entered or attempted to enter the United States illegally on or about
10 April 22, 2008;

11 c. Were found in a vehicle driven by defendant in or near Pine Valley, California
12 and that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful
13 right to enter or remain in the United States;

14 d. Were paying \$1,500 - \$2,300 to others to be brought into the United States
15 illegally and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
23 substantive evidence;

24 b. The United States may elicit hearsay testimony from arresting agents
25 regarding any statements made by the material witness(es) provided in discovery, and such testimony
26 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
27 of (an) unavailable witness(es); and,

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated:

5/2/38



United States Magistrate Judge